

FIRST REGULAR SESSION

[P E R F E C T E D]

# SENATE BILL NO. 41

97TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR MUNZLINGER.

Pre-filed December 1, 2012, and ordered printed.

Read 2nd time January 10, 2013, and referred to the Committee on Commerce, Consumer Protection, Energy and the Environment.

Reported from the Committee February 6, 2013, with recommendation that the bill do pass.

Taken up for Perfection February 28, 2013. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

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## AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to private nuisance actions.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapter 537, RSMo, is amended by adding thereto one new  
2 section, to be known as section 537.291, to read as follows:

**537.291. 1. A person shall not maintain an action to enjoin,  
2 abate, or recover damages for a private nuisance based upon an air  
3 emission or water or solid waste discharge, other than the placement  
4 of nuclear waste, where the emission or discharge was expressly  
5 authorized by and is not in violation of a term or condition of:**

6 **(1) A statute or regulation;**

7 **(2) A license, permit, or order that is issued after public  
8 comment by a municipal, county, state, or federal government and  
9 subject to continuing compliance oversight, periodic review by the  
10 issuing agency, and renewal on a periodic basis; or**

11 **(3) A court order or judgment.**

12 **2. The provisions of subsection 1 of this section shall not apply  
13 if the permit or order creates a condition not reasonably foreseeable at  
14 the time of issuance or if the permit holder purposefully fails to  
15 disclose facts or conditions that are relevant in the issuance of the  
16 permit or order.**

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